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# **Guidance For Solid Waste Handling And Disposal Facilities On Compliance With MassDEP's Waste Bans**

In Support of 310 CMR 19.000, Solid Waste Management Regulations  
310 CMR 19.017 Waste Bans

**Initial Publication: August 1999**  
**Revised: December 23, 2005**

Approved:

A handwritten signature in dark ink, reading "James C. Colman".

James C. Colman  
Assistant Commissioner  
Bureau of Waste Prevention

This information is available in alternate format. Call Donald M. Gomes, ADA Coordinator at 617-556-1057. TDD Service - 1-800-298-2207.

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**GUIDANCE FOR SOLID WASTE HANDLING AND DISPOSAL FACILITIES  
ON COMPLIANCE WITH MASSDEP'S WASTE BANS  
DECEMBER 23, 2005**

*This document is intended to guide parties in complying with the Waste Bans in the Solid Waste Management Facility Regulations at 310 CMR 19.017. This document is intended solely as guidance. It does not create any substantive or procedural rights, and is not enforceable by any party in any administrative proceeding with the Commonwealth. The Waste Ban regulations include bans on disposal or transfer for disposal or contracting for disposal of specific solid waste materials. This document summarizes these requirements for solid waste facilities and provides guidance on approaches the MassDEP considers acceptable for complying with the Waste Bans. Parties using this guidance should be aware that there may be other acceptable alternatives for achieving compliance with the Waste Bans.*

## **INTRODUCTION**

“Waste Bans” are prohibitions on the disposal and transfer for disposal of certain hazardous and recyclable items at solid waste facilities in Massachusetts. The goals of the waste bans are to conserve capacity at existing solid waste disposal facilities, minimize the need for construction of new facilities, and to support the recycling industry by ensuring that large volumes of material are available on a consistent basis. The waste bans also prohibit certain toxic substances or materials that may adversely affect our environment when landfilled or combusted. This guidance document supersedes previous documents published by the Massachusetts Department of Environmental Protection (MassDEP) initially in August 1999, and revised in 2000 when cathode ray tubes were added to the list of banned materials.

## **BACKGROUND**

This revised guidance document is intended to assist operators of solid waste facilities in complying with the waste ban requirements at 310 CMR 19.017. In accordance with the provisions and the timetable set forth in MassDEP's October 7, 2005, amendments to its solid waste facility regulations (General Requirements, Procedures and Permits for Solid Waste Management Facilities, 310 CMR 19.000), acceptance for the purpose of disposal or transfer for disposal of the following materials is prohibited (except for de minimis quantities of certain materials) at Massachusetts solid waste transfer stations, landfills, combustors, and construction and demolition debris processing facilities:

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- Asphalt pavement, brick and concrete
- Cathode ray tubes
- Glass containers
- Lead batteries
- Leaves and yard waste
- Metal
- Metal containers
- Recyclable paper
- Single polymer plastics
- Tires
- White goods
- Wood

These materials may, however, be transferred for further processing, reuse or recycling. The waste bans on wood and whole tires do not apply to combustion facilities.

The regulations at 310 CMR 19.017 require solid waste handling and disposal facilities to submit waste ban compliance plans. In general, waste ban compliance plans should demonstrate how the facility operator will not dispose, or transfer for disposal, unacceptable quantities of banned materials. Once MassDEP approves a plan, the facility must implement it. MassDEP will use a facility's approved plan and all applicable permits to evaluate compliance with the waste bans and conduct enforcement.

This document is not a regulation. It provides guidance to facility operators regarding the development of acceptable waste ban compliance plans and supersedes all prior guidance pertaining to waste ban compliance plans.

MassDEP has provided a form all facilities are encouraged to use to generate their plan (see Attachment G, Waste Ban Compliance Plan Form).

This document includes the following sections:

Section I	Facilities subject to 310 CMR 19.017 waste bans
Section II	Definitions of materials banned by 310 CMR 19.017
Section III	Compliance with waste ban regulations
Section IV	Ongoing waste stream monitoring
Section V	Comprehensive load inspections
Section VI	Facility response to failed loads
Section VII	Other compliance plan elements
Section VIII	Compliance plan submittal and approval
Section IX	Compliance and Enforcement

Also included are the following attachments:

Attachment A - Ongoing Monitoring Recording Sheet

Attachment B - Comprehensive Inspection Recording Sheet  
Attachment C - Sample Facility Letter to Hauler  
Attachment D - Summary of Waste Ban Requirements  
Attachment E - Sample Facility Letter to Municipality  
Attachment F - Sample Signage Language  
Attachment G - Waste Ban Compliance Plan Form

## **I. FACILITIES SUBJECT TO 310 CMR 19.017 WASTE BANS**

The following facilities must comply with the waste bans:

- Solid waste landfills;
- Solid waste combustors;
- Solid waste transfer stations and
- Construction and demolition processing facilities.

The waste ban regulations require that solid waste facilities submit compliance plans. However, MassDEP will not require plans from ash-only or sludge-only landfills because those facilities do not manage municipal solid waste or construction and demolition debris and therefore do not handle banned materials.

## **II. DEFINITIONS OF MATERIALS BANNED BY 310 CMR 19.017**

**Asphalt Pavement, Brick, and Concrete:** asphalt pavement, brick and concrete from construction activities and demolition of buildings, roads and bridges and similar sources.

**Cathode Ray Tubes:** any intact, broken, or processed glass tube used to provide the visual display in televisions, computer monitors and certain scientific instruments such as oscilloscopes.

**Glass Containers:** glass bottles and jars (soda-lime glass) but excluding light bulbs, Pyrex cookware, plate glass, drinking glasses, windows, windshields and ceramics.

**Lead Batteries:** lead-acid batteries used in motor vehicles or stationary applications.

**Leaves:** deciduous and coniferous leaf deposition.

**Metal:** ferrous and non-ferrous metals derived from used appliances, building materials, industrial equipment, transportation vehicles, and manufacturing processes.

**Metal Containers:** aluminum, steel or bi-metal beverage and food containers.

**Recyclable Paper:** all paper, corrugated cardboard, and paperboard products, except tissue paper, toweling, paper plates and cups, wax-coated corrugated cardboard, and other low-grade paper products.

**Single Polymer Plastics:** all narrow-neck plastic containers where the diameter of the mouth of the container is less than the diameter of the body of the container. This includes single polymer plastic containers labeled 1 – 6.

**Tires:** a continuous solid or pneumatic rubber covering intended for use on a motor vehicle.<sup>1</sup>

**White Goods:** appliances employing electricity, oil, natural gas or liquefied petroleum gas to preserve or cook food; wash or dry clothing, cooking or kitchen utensils or related items; or to cool or to heat air or water.

For purposes of the waste bans, white goods include, but are not limited to, refrigerators, freezers, air conditioners, water coolers, dishwashers, clothes washers, clothes dryers, gas or electric ovens and ranges, and hot water heaters. White goods do not include microwave ovens.

**Wood:** treated and untreated wood, including wood waste.<sup>2</sup>

**Yard Waste:** deciduous and coniferous seasonal depositions (e.g., leaves), grass clippings, weeds, hedge clippings, garden materials, and brush 1 (one) inch or less in diameter (excluding diseased plants).

### III. COMPLIANCE WITH WASTE BAN REGULATIONS

To ensure compliance with waste ban regulations, facilities are required by the regulations to submit a plan that describes their plans and procedures for ensuring that they do not dispose, or transfer for disposal, banned material. For facilities that were in operation or were permitted as of April 1, 2006, revised waste ban compliance plans are required to be sent to the solid waste section chief in the appropriate MassDEP regional office by April 1, 2006 and must be implemented by July 1, 2006. For facilities that submit a permit application after April 1, 2006, waste ban plans must be submitted with the permit application and must be implemented upon commencement of operations. The plans may be submitted using forms in Attachment G and should include detailed descriptions of how the facility will:

- Monitor all incoming loads on an ongoing basis;
- Conduct comprehensive inspections of certain loads; and
- Respond to failed loads, including written communication that will be sent to responsible parties when they deliver unacceptable amounts of banned materials.

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<sup>1</sup> Shredded tires, defined as tires that have been cut, sliced or ground into four or more pieces such that the circular form of the tire has been eliminated, can be landfilled.

<sup>2</sup> “Wood waste” is defined in the solid waste regulations as follows: Wood waste means discarded material consisting of trees, stumps, and brush, including but not limited to sawdust, chips, shavings and bark. Wood waste does not include new or used lumber or wood from construction and demolition waste and does not include wood pieces or particles containing or likely to contain asbestos, chemical preservatives such as creosote or pentachlorophenol, or paints, stains or other coatings.

These activities, as well as MassDEP's definition of acceptable amounts of banned materials that can be accepted for disposal, are outlined in more detail in Sections IV, V and VI.

### **Specific Exemptions from Certain Waste Ban Compliance Plan Requirements**

1. Solid waste facilities whose approved waste ban compliance plan states that they do not receive waste in containers or vehicles with a capacity greater than 5 (five) cubic yards do not need to conduct record keeping or comprehensive load inspections. However, these facilities still need to monitor all waste for banned materials as part of their ongoing waste ban monitoring. These solid waste facilities can aggregate loads of 5 cubic yards or less that may contain asphalt pavement, brick, concrete, metal and wood into a solid waste container or vehicle whereby the aggregated load may then exceed the 20% by volume de minimis exemption for these materials. These aggregated loads may then be sent to a permitted solid waste facility for disposal and not be subject to MassDEP waste ban enforcement for asphalt pavement, brick, concrete, metal and wood disposal. (Please note this exemption does not apply to white goods as specified at Section V.D i) or other banned materials.)

MassDEP will provide all solid waste facilities with a list of solid waste transfer stations that have approved waste ban compliance plans that state the facility does not receive waste in containers or vehicles with a capacity of greater than 5 (five) cubic yards.

Example: A municipal transfer station whose approved waste ban compliance plan states it does not receive waste in containers or vehicles with a capacity of greater than 5 cubic yards, can aggregate asphalt pavement, brick, concrete, metal (with the exception of white goods as outlined in Section V-D i) and wood into a container or vehicle and exceed the 20% by volume exemption for those specific materials. That container or vehicle may then be sent to another solid waste facility for disposal. The receiving solid waste facility will not be subject to MassDEP waste ban enforcement for asphalt pavement, brick, concrete, metal and wood disposal for that waste load, even though it exceeds the 20% de minimis threshold.

If a transfer station accepts ANY loads greater than 5 (five) cubic yards, it must conduct ongoing monitoring, comprehensive inspections and recordkeeping for all banned materials, including asphalt pavement, brick, concrete, metals and wood. Aggregated loads from these facilities are not allowed to be disposed at another solid waste facility and are subject to inspection and rejection for all banned materials at the receiving facility.

2. Asphalt pavement, brick, and concrete are banned from disposal or transfer for disposal. Therefore, solid waste facilities must comply with the bans. However, because most asphalt pavement, brick, and concrete is already routinely diverted from disposal, only those solid waste facilities that routinely receive construction and demolition debris, such as construction and demolition processing facilities, need to address asphalt pavement, brick and concrete in their waste ban compliance plans. Those facilities that only receive incidental quantities of construction and demolition debris do not need to address asphalt pavement, brick, and concrete in their waste ban compliance plans at this time (e.g., municipal waste combustors, municipal transfer stations and municipal solid waste landfills).

If MassDEP observes or has reason to believe that asphalt pavement, brick and concrete transfer and/or disposal is being performed to a greater degree than anticipated, MassDEP may require an individual facility or all facilities to submit a waste ban compliance plan for these materials.

MassDEP, however, encourages all facilities to establish a collection system to divert wastes from disposal whenever possible.

3. Whole tires may be disposed at combustion facilities and shredded tires may be disposed at landfills.
4. Wood may be disposed at municipal waste combustion facilities.

#### **IV. ONGOING WASTE STREAM MONITORING**

To identify the presence of banned materials in waste loads, compliance plans should provide for ongoing waste stream monitoring. A waste stream monitoring system should provide effective means for the facility to: 1) detect and divert banned materials from disposal or transfer for disposal; 2) identify haulers and generators who are shipping banned materials to the facility; and 3) compare the monitoring results against the results of comprehensive load inspections to see if they are representative of all incoming loads.

Construction and demolition processing facilities that routinely separate, recycle and/or divert asphalt pavement, brick, concrete, metal, and wood from disposal satisfy the ongoing waste stream monitoring requirement for those specific banned materials. Therefore, construction and demolition processing facilities that routinely separate, recycle and/or divert asphalt pavement, brick, concrete, metal and wood from disposal only need to keep records and follow-up on failed loads for other banned materials.

## **Load Selection**

The facility should monitor all vehicles to identify banned materials. This includes loads from municipalities with a Department Approved Recycling Program (DARP) <sup>3</sup> and vehicles that do not receive a comprehensive load inspection as described in Section V below.

## **Monitoring Procedure**

Facility personnel who observe waste loads during the execution of normal waste handling practices should conduct waste stream monitoring.

MassDEP believes that waste stream monitoring is feasible for detection and removal of individual batteries, whole tires, white goods, and cathode ray tubes (CRTs). In addition, waste stream monitoring can be used to identify significant quantities of leaves and yard waste, corrugated cardboard, recyclable paper, asphalt pavement, brick, concrete, metal and wood, and in some cases facilitate their removal. Detection and/or removal of glass containers, metal containers, and single polymer plastic containers may be infeasible unless significant quantities of these materials are found.

## **Unacceptable Quantities**

MassDEP's goal is for facilities to identify and remove as many prohibited materials as feasible during the ongoing monitoring procedure. MassDEP considers individual lead batteries, whole tires, white goods, and CRTs to be easily identified and removed. At the same time, MassDEP recognizes that other banned materials may arrive at the facility mixed with solid waste and, if in small quantities, may be difficult to remove. Therefore, facility personnel should use the standards laid out in Section V - D to determine if loads contain unacceptable quantities of restricted materials. Facility personnel who observe waste loads with unacceptable quantities of banned materials should follow the procedures outlined in Section VI.

## **Record-keeping**

The facility operator should record and maintain information on all loads containing unacceptable quantities of banned materials delivered in vehicles with a capacity of greater than 5 (five) cubic yards. (See Attachment A for suggested format.) However, construction and demolition processing facilities do not need to keep records of asphalt pavement, brick, concrete, metal and wood that are routinely accepted at the facility, separated and diverted from disposal. For other banned materials, construction and demolition processing facilities do need to keep records and take follow-up actions as outlined in Sections V.E. and VI.

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<sup>3</sup> The Department Approved Recycling Program (DARP) establishes recycling, composting and public education standards for municipal recycling programs. Participation in DARP is voluntary. DARP status exempts municipal solid waste loads from comprehensive inspections for selected "waste ban" materials at solid waste disposal facilities.



## **V. COMPREHENSIVE LOAD INSPECTIONS**

Comprehensive load inspections complement waste stream monitoring by providing a detailed accounting of the types, amounts and sources of material entering the facility in a limited sample of waste loads each month. In addition, results of comprehensive load inspections can be compared with ongoing monitoring results to check for discrepancies. This section provides guidance to facility operators on frequency of inspections, selection of loads for inspections, inspection procedures, banned material quantity allowances and reporting for comprehensive load inspections. Operators are encouraged to develop and implement innovative detection methods, such as the use of video monitors or third party “auditors” of waste ban compliance activities.

In most cases, municipal transfer stations that do not accept commercial loads or waste from private haulers will not need to conduct comprehensive load inspections, as noted in subsection A below.

### **A. Loads not Subject to Comprehensive Load Inspections**

- i) Loads originating from cities, towns or entities included on the list of DARP communities need not be inspected for the presence of glass containers, metal containers, single polymer plastic containers, paper, leaves and yard waste. However, a DARP load may be randomly chosen for inspection. When this occurs, the inspection should proceed for the purpose of identifying other banned materials, i.e., lead batteries, white goods, whole tires (at landfills), CRTs, asphalt pavement, brick, concrete, metal and wood. The next non-DARP load should then be inspected. Inspections of “DARP loads” should not count toward the minimum number of comprehensive inspections per month.
- ii) Comprehensive load inspections need not be conducted for vehicles with capacity of 5 (five) cubic yards or less. Passenger vehicles and most pick-up trucks have less than 5 (five) cubic yard capacity.
- iii) Disposal facility operators need not conduct comprehensive inspections of transfer trailer loads originating from transfer stations because transfer station operators are monitoring their waste streams and conducting their own comprehensive inspections. However, landfill and incinerator personnel that identify loads with unacceptable quantities of banned materials through their ongoing waste stream monitoring efforts should document the failed loads on their ongoing monitoring sheets and take appropriate follow-up action (i.e. send a failed load letter to the transfer station owner).
- iv) Construction and demolition processing facilities that routinely separate, recycle and divert asphalt pavement, brick, concrete, metal and wood from disposal satisfy the comprehensive load inspection requirement for those specific banned materials. Therefore, construction and demolition processing facilities only need to conduct comprehensive load inspections for other banned materials (i.e., cathode ray tubes, glass

containers, leaves and yard waste, lead batteries, metal containers, single polymer plastic containers, recyclable paper and white goods).

## B. Load Selection

- i) Facilities should complete a minimum number of inspections per month. The Inspection Frequency Table below provides guidance on the number of inspections MassDEP believes is reasonable to ensure compliance. Facilities should indicate in their Waste Ban Compliance Plan whether they intend to employ Option A or Option B (see Section V-C Inspection Procedure below). The deterrence capability of an inspection program stems from a combination of the number of days each month or year on which inspections occur and the percentage of loads inspected.

Inspection Frequency Table		
Facility Size in Permitted Tons per Day	OPTION A: The contents of at least 5 bags are opened and inspected Min. # of Vehicles to Inspect per Month ( <i>must have capacity greater than 5 cubic yards</i> )	OPTION B: The facility opts NOT to open bags Min. # of Vehicles to Inspect per Month ( <i>must have capacity greater than 5 cubic yards</i> )
Municipal transfer with no private haulers or commercial users	0	0
1-99	2	4
100-299	4	8
300-499	6	12
500-999	8	16
1000 +	10	20

- ii) In recognition of the need to provide equitable treatment for all of a facility's waste suppliers, vehicles should be selected for inspection on a random basis. Random load selection also will ensure inspection of waste from all types and sizes of collection vehicles. Facility operators should devise an inspection schedule that frequently varies and is kept confidential so as not to alert haulers in advance.

## C. Inspection Procedure

Comprehensive load inspections should be conducted in a manner that does not endanger the safety of facility or hauler personnel. In general, waste loads designated for inspection should be spread out in a manner that will allow facility personnel to identify banned material. Facility personnel should then assess the load by following one of the two procedures outlined below:

Inspection Procedure for Option A: Facility personnel first should visually inspect waste by walking around the load looking for banned materials that are typically unbagged (e.g., white goods, CRTs, corrugated cardboard, asphalt pavement, brick, concrete, metal and wood). Then, personnel should randomly select a minimum of five (5) bags of refuse. These five bags should then be opened and examined for unacceptable levels of banned materials as described in Section V-D.

However, where it is consistent with personnel safety, the inspection of bags may occur before the entire load is tipped.

Inspection Procedure for Option B: Facility personnel should visually inspect waste by walking around the load looking for banned materials that are typically unbagged (e.g., white goods, CRTs, corrugated cardboard, asphalt pavement, brick, concrete, metal and wood). Then, personnel should scan the bagged waste for obvious evidence of banned materials (e.g., clear bags containing paper, leaves, single polymer plastic containers, glass containers, and/or metal containers; paper yard waste bags; plastic bags of leaves that “bounce” off the truck).

Once a waste load has been tipped and inspected for banned materials and unacceptable quantities of banned materials are discovered, the entire load is considered to have failed the inspection and should be recorded as such. See Section V-D for descriptions of unacceptable quantities of banned materials. Guidance on procedures for how the facility should respond to failed loads is outlined in Section VI.

In the case of transfer stations where it is logistically infeasible to spread out waste loads for inspection, the facility’s compliance plan should describe how banned materials will be identified. Options include visually inspecting the contents of roll-off containers or selecting five or more trash bags for inspection before the load is tipped.

#### **D. Acceptable Levels**

The waste ban regulation prohibits specified banned materials from being disposed or transferred for disposal. As a practical matter, 100% compliance is not feasible in all circumstances and with each banned material. The following provides guidance on how the waste bans should be applied for each banned material whether the facility is using Option A or Option B.

- i) Lead batteries, white goods, whole tires (except tires that can be disposed of at incinerators) and CRTs are unacceptable in any quantity and can be detected in a load of refuse.
- ii) Unbagged leaves and yard waste are not easily counted and should be estimated as a percentage of the refuse load. An acceptable quantity is 10% or less by volume. Bagged leaves and yard waste may be counted by the bagful, in which case the following quantities constitute acceptable levels established for leaves and yard waste:

<b><u>Vehicle Type Inspected</u></b>	<b><u>Acceptable Levels</u></b>
Roll-off Container	Less than 20 bags
Packer Truck	Less than 10 bags
Dump Truck or Smaller	Less than 5 bags

- iii) Recyclable paper should be estimated as a percentage of the refuse load volume. An acceptable quantity is 20%<sup>4</sup> or less by volume for recyclable paper.
- iv) Asphalt pavement, brick, concrete, metal and wood should be estimated as a percentage of the container load volume. An acceptable quantity is 20%<sup>4</sup> or less by volume of the cumulative total of the container load.
- v) The following are acceptable levels of glass containers, metal containers and single polymer plastic containers:  
*Option A:* 5 (five) refuse bags from each inspected load should be opened and their contents checked. If at least 3 (three) of the 5 (five) bags inspected contain 5 (five) or fewer glass, metal or single polymer plastic container units, then that load has acceptable levels.  
*Option B:* Facilities should estimate the aggregate amount by volume. An acceptable quantity is 20% or less by volume.

## **E. Record Keeping**

To implement the record-keeping requirement of 310 CMR 19.017 (5)(b), the facility operator should record and maintain the following information on comprehensive load inspection activities (See Attachment B for suggested format.):

- Date of inspection;
- Number of tons or cubic yards of solid waste received on each day waste ban inspections are performed;
- Hauler's name, address and phone number for each load inspected;
- Municipality where refuse originated;
- Total tons or cubic yards of waste in each inspected load;
- The quantity of banned materials discovered, separated and diverted from disposal or transferred for disposal by the operator, returned to the hauler, disposed on-site or transferred for disposal. Where a failed load is disposed at the facility or transferred for disposal due to difficulties associated with reloading it (see Section VI-B (iii)), the operator's rationale for the decision should be included in the inspection program records;
- Documentation of communication follow-up with haulers and/or generators connected with failed loads as noted in Section VI.

The results of the comprehensive load inspection should be documented on the comprehensive load inspection-reporting sheet. See Attachment B for suggested format. In addition, the facility's annual report should summarize and incorporate the inspection program data.

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<sup>4</sup> In order to improve the ability of tip floor staff to make judgment calls on the composition of waste deliveries, facility operators could run tests to establish the appearance of typical loads with 10%, 20%, 30%, etc. of different types of banned materials. Photographs could then be used by tip floor staff to compare inspected loads against the 20% that is allowed.

Operators are encouraged to include materials in their reports such as photographs or videotapes to document inspection activities and the detection and handling of failed loads.

Construction and demolition processing facilities that routinely separate, recycle and/or divert asphalt pavement, brick, concrete, metal and wood from disposal do not need to keep waste ban records for those specific banned materials. However, construction and demolition debris processing facilities should keep waste ban records for all other banned materials.

## **VI. FACILITY RESPONSE TO FAILED LOADS**

### **A. Communication**

A facility inspection program is intended to increase recycling and diversion of banned materials to more environmentally sound management options. The facility should take the following actions when loads containing unacceptable amounts of banned materials are received at the facility. Construction and demolition processing facilities do not need to take these actions if asphalt pavement, brick, concrete, metal and/or wood is the only banned material in the load. If other banned material is in the load they do need to take the following actions:

- i) Notify the driver that the load is in violation of the waste ban regulations.
- ii) Identify the generator, if known.
- iii) Record the hauling company and truck number.
- iv) Record the type and amount of banned material found in the load.
- v) Record the date of violation.
- vi) Send a letter to the hauler (see Attachment C) identifying which banned materials were in the load and encouraging the hauler to work with its customers to separate banned materials and recycle or dispose of them appropriately. The facility also should furnish a MassDEP letter and fact sheet (see Attachment D) to the hauler explaining the waste bans. Sample letters should be included with the facility's waste ban compliance plan.
- vii) If the source of the banned material is a municipally-run or contracted operation, the facility should send a letter to the municipality (see Attachment E) stating that unacceptable quantities of banned material were found in its waste and encourage the community to contact MassDEP for technical assistance. The facility also should furnish a MassDEP letter and fact sheet (see Attachment D) to the municipality explaining the waste bans. Sample letters should be included with the facility's compliance plan.
- viii) If the banned material is identified through the Ongoing Monitoring procedure and the source is a vehicle with a capacity of five (5) cubic yards or less, the facility should notify

the driver that the facility is prohibited from accepting banned material mixed with solid waste. As appropriate, the facility should direct the driver to designated areas for managing source-separated banned materials and provide appropriate instructions.

- ix) Keep a record of letters sent out as a response to failed loads on the facility's premises, as part of the record keeping requirements in 310 CMR 19.017 (5)(b).
- x) Keep files of any photographs or videotapes of waste ban implementation activities.

## **B. Failed Load Disposition**

- i) All loads containing lead-acid batteries, white goods, whole tires (at landfills only), and CRTs should be rejected and reloaded unless the facility sets the materials aside for recycling.
- ii) Facilities are not required to reject loads from DARP entities that contain unacceptable quantities of recyclable paper, leaves and yard waste, glass containers, metal containers and single polymer plastic containers.
- iii) Facility operators should follow the hierarchy listed below for handling failed loads from all other sources (including businesses, institutions and multi-family residences from a DARP municipality that do not participate in the municipality's solid waste and recycling program).
  - 1) Process the material for reuse or recycling if the facility is permitted to conduct such activities.
  - 2) Reject or reload the waste if there are substantial quantities of recoverable recyclables in the load and there are reasonable outlets for the materials.
  - 3) Accept the waste load; then to the maximum extent possible, separate and divert banned materials from disposal (in the case of wood and whole tires, divert from disposal at landfills).
  - 4) In the case of banned construction and demolition debris, banned material (i.e., asphalt pavement, brick, concrete, metal and wood) may be transferred to facilities that have an approved Waste Ban Compliance Plan that includes diversion of these materials for recycling or reuse, or can demonstrate that they will not accept banned material for disposal or transfer for disposal.
  - 5) Dispose (or transfer for disposal) the load, when the waste cannot be recycled, rejected or reloaded because reloading the waste would endanger workers or substantially disrupt facility operations. The facility operator's rationale for disposing a failed load should be recorded.

## **VII. OTHER COMPLIANCE PLAN ELEMENTS**

### **A. Training**

The plan should include a description of annual training for facility personnel regarding how to monitor waste loads for banned materials, conduct waste load inspections, and keep proper records.

### **B. Signage**

The plan should include certification that the operator has posted appropriate signs at the facility entrance and at waste receiving areas informing facility users of the waste ban regulations and listing the pertinent materials banned from disposal and transfer from disposal. (See Attachment F for example.)

### **C. Annual Report**

In the plan, the operator should commit to answer all questions relating to the waste ban compliance plan on the facility's annual reporting form provided by MassDEP.

## **VIII. COMPLIANCE PLAN SUBMITTAL AND APPROVAL**

### **A. Deadline for plan submission**

Pursuant to 310 CMR 19.017, facilities are required to submit waste ban compliance plans for MassDEP review at least 90 days prior to the effective date of the ban. (For the waste ban on asphalt pavement, brick, concrete, metal and wood the effective date is July 1, 2006 and waste ban compliance plans must be submitted by April 1, 2006.) The plans should be addressed to the solid waste section chief at the appropriate MassDEP regional office.

### **B. Appropriate Permit Application Forms and Approval Process**

Facilities are encouraged to use the enclosed Waste Ban Compliance Plan Form (see Attachment G) to ensure that the key elements of this document are included and speed MassDEP's evaluation. The following facilities also must submit a permit modification form with their waste ban compliance plan:

- All solid waste transfer and handling facilities permitted at 50 tons per day or greater **without** an existing waste ban compliance plan. (Form *BWP SW 07 – Modification of a Large Handling Facility*)
- All solid waste transfer and handling facilities permitted at 50 tons per day or greater **with** an existing waste ban compliance plan. (Form *BWP SW 21 – Modification of a Small Handling Facility*)
- Solid waste landfills (Form *BWP SW 22 – Landfills – Minor Modification*)

- Solid waste incinerators (Form *BWP SW 21 – Modification of a Small Handling Facility*)
- Any solid waste transfer and handling facility permitted at less than 50 tons per day that will undergo construction as a result of implementing its waste ban compliance plan (Form *BWP SW 21 – Modification of a Small Handling Facility*)

MassDEP will review plans from these facilities in accordance with 310 CMR 19.037 – Review Procedure for Permit Modifications, Permit Renewals and Other Approvals.

Solid waste transfer and handling facilities permitted at less than 50 tons per day and not undergoing construction should submit their waste ban compliance plans with a cover letter (i.e., no permit modification form required). These plans will be presumptively approved if MassDEP does not contact the operator within 45 (forty-five) days of receipt of the plan, in accordance with 310 CMR 19.039(6) – Alternative Review Process for Certain Modifications.

## **IX. COMPLIANCE AND ENFORCEMENT**

### **A. Facility Compliance Plan Implementation**

To comply with 310 CMR 19.017 Waste Ban provisions, a facility must implement the actions specified in its approved waste ban compliance plan and ensure that banned materials are diverted from disposal or transfer for disposal.

### **B. Department Inspection Program**

MassDEP will conduct facility inspections to determine if the facility is employing a waste stream monitoring program and conducting comprehensive load inspections in accordance with its approved compliance plan. In addition, MassDEP personnel may review facility records concerning its monitoring and waste load inspection program to corroborate facility compliance activities. Records of correspondence between the facility and haulers and/or generators also will be reviewed to determine whether the facility is conducting its waste stream monitoring and load inspections and whether the appropriate parties are notified about failed loads and the opportunities to source separate banned materials.

In addition to observing ongoing waste stream monitoring procedures, MassDEP may request that comprehensive inspections be performed in the presence of a MassDEP inspector, for the purpose of observing and evaluating the facility's comprehensive waste load inspection process, even if such inspections were not scheduled for that day. Such an inspection may count toward the monthly inspection total required by the Inspection Frequency Table at V.b.i.

### **C. Modification of Compliance Plan**

Under 310 CMR 19.017 (7), MassDEP may allow acceptable quantities of banned materials to be disposed or transferred for disposal at solid waste disposal facilities (as explained in Section V-D of this guidance document). If MassDEP personnel determine that a facility has disposed or transferred for disposal banned materials in excess of the acceptable quantities despite having



implemented its approved compliance plan, MassDEP may require the submission of a modified compliance plan.

**D. Non-Compliance with Plan**

In accordance with MassDEP's Enforcement Response Guidance, enforcement may include written notices of non-compliance, consent orders, unilateral orders or referral to the Attorney General. Repeat, pattern, willful or other serious violations may result in daily penalties of up to \$25,000 for each violation.